DOCUMENT RESUME

ED 474 250 RC 023 970

AUTHOR	Maloy, Kathleen A.
TITLE	Welfare Reform Reauthorization in 2002: What Are the Issues for Tribal Communities and Indian Families? Issue Brief.
INSTITUTION	Henry J. Kaiser Family Foundation, Menlo Park, CA.
PUB DATE	2002-03-00
NOTE	19p.
AVAILABLE FROM	For full text: http://www.kff.org/content/2002/20020415/6025.pdf.
PUB TYPE	Opinion Papers (120)
EDRS PRICE	EDRS Price MF01/PC01 Plus Postage.
DESCRIPTORS	*American Indians; Economic Development; Employment Services; *Federal Indian Relationship; Federal Legislation; Job Training; Poverty; Program Design; Public Policy; Tribal Sovereignty; *Tribes; *Welfare Reform; *Welfare Services
IDENTIFIERS	*Personal Responsibility and Work Opp Recon Act; *State Tribal Relationship; Temporary Assistance for Needy Families

ABSTRACT

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) replaced Aid to Families with Dependent Children with Temporary Assistance to Needy Families (TANF), which establishes work-focused, time-limited welfare benefits. TANF permits tribes to receive funds directly from the federal government to administer their own programs. As of June 2001, 34 tribal TANF plans served 170 tribes, and 38 more plans were pending. Most tribal TANF plans are fairly similar to state plans but tend to place greater emphasis on education and training as a first approach to welfare reform. The 2002 reauthorization of PRWORA provides an opportunity for considering what has been accomplished and what needs to be changed. States and tribes share a number of broad goals for PRWORA reauthorization: shifting the focus of welfare reform to poverty reduction; keeping TANF funding at least the same; expanding flexibility to include educational activities as eligible work; adjusting participation rate requirements; allowing families to receive supportive services (such as child care) without time limits; and avoiding new incentives and bonuses that would reduce resources and constrain program flexibility. Issues specific to tribes include reexamining the funding formula to account for tribes' infrastructure needs post-PRWORA; giving tribes equal access to state funds and to federal performance bonus and incentive funds; enabling families to receive more months of economic support while tribal economies are being developed; and improving state-tribal collaboration. (Contains 27 references) (TD)

Reproductions supplied by EDRS are the best that can be made
from the original document.

THE HENRY J. KAISER FAMILY FOUNDATION

ISSUE BRIEF

March 2002

ED 474 250

Welfare Reform Reauthorization in 2002: What Are the Issues for Tribal Communities and Indian Families?

Prepared by

Kathleen A. Maloy, J.D., Ph.D.
Center for Health Services Research and Policy
The George Washington University Medical Center

for

The Henry J. Kaiser Family Foundation

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY

M. James

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

BEST COPY AVAILABLE

RC 023970

ACKNOWLEDGEMENTS

The author would like to thank the many individuals and organizations that provided information and insight on this topic including the National Conference of State Legislators, the National Congress of American Indians, the Center for Law and Social Policy, the Bureau of Indian Affairs, DHHS Administration for Children and Families, and the Kathryn M. Buder Center for American Indian Studies at the George Warren Brown School of Social Work. Their generosity with their time and reference materials made this issue brief possible. In addition, my appreciation to John Bushman, Priya Helweg, Sarah Hicks, Marsha Lillie-Blanton, Sara Rosenbaum, Yvette Roubideaux, and Sheri Steisel for their review and comments on drafts of this paper.

INTRODUCTION

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) created fundamental changes in the U.S. social safety net. The centerpiece of PRWORA involved repealing Aid to Families with Dependent Children (AFDC) and replacing this entitlement program with a block grant called TANF (Temporary Assistance to Needy Families) designed to establish work-focused, time-limited welfare benefits. PRWORA reduced federal protections for individuals while expanding state flexibility. These changes prompted, and were prompted by a renewed policy and political focus on: out of wedlock births, marriage and family formation, and the perceived effects of welfare dependency. PRWORA also made major changes in other components of the social safety net including child support enforcement, child care, the Food Stamp Program, disability benefits for children, and eligibility of immigrants for federal, state, and local benefits.

The reauthorization of PRWORA, due in 2002, will provide an opportunity for considering what has been accomplished under welfare reform, and whether and how the Act should be changed. The consequences could be substantial for poor families as well for state and local governments responsible for implementing devolved social welfare policy. Advocates and interest groups are already debating the range of effects and the implications for various stakeholders. Congress will have many competing interests to consider.

Tribes and their communities, as sovereign entities, and Indian families, as citizens of *both* states and tribes, have been uniquely affected by the changes created under welfare reform. TANF, unlike AFDC, has authorizing legislation that permits tribes to receive funds directly from the federal government to administer their own programs. The purpose of this issue brief is to identify and discuss PRWORA reauthorization issues that are important to tribal communities and Indian families within the framework of the broader reauthorization policy context.

PRWORA Reauthorization Context—Assessing the Consequences of Changed Social Welfare Policy

The following section provides a brief overview of the goals and provisions of TANF, and its consequences for poor families since 1996. References to selected and more detailed reviews are noted at the end of this report.

PRWORA Themes: Marriage, Work, and Devolution

Proponents of welfare reform believed that the best way to establish a time-limited system of assistance premised on requiring work was to give state and local governments the power and discretion to determine how to accomplish these goals. The TANF legislation contained four goals: (1) provision of assistance to needy families; (2) ending dependence of needy families by promoting job preparation, work, and marriage; (3) preventing and reducing out-of-wedlock pregnancies; and (4) encouraging formation and maintenance of two-parent families. Three of four purposes have to do with family formation and direct how funds will be expended and for what programs accordingly.

In essence, a program that provided entitlement to income support for families was replaced by a program that was funded as a block grant and emphasized employment. Although states have the flexibility to design their own TANF plans and to use portions of the TANF grants for their own purposes, PRWORA contained specific directives for how states were to move away from the AFDC model of placing recipients in education and training programs first, and toward the new model that emphasizes work first and a quick entry into the labor market. These provisions used both financial incentives and explicit directives to promote work.

Financial incentives and constraints designed to encourage certain state policies and recipient behaviors included: (1) an annual block grant amount of $16.5 billion dollars, which was established based on federal funding for AFDC in 1994 and does not increase from year to year; (2) a requirement that states spend at least 75 to 80 percent of the amount they spent before 1996 (i.e., maintenance of effort or MOE funds), which equates to $10 billion MOE annually, and (3) the use of penalties and bonuses to discourage and/or support goals related to, for example, out-of-wedlock births or failure to work. Explicit directives to promote work were also given including specific work participation requirements, penalties for non-compliance, and time limits on receipt of benefits. States also were required to continue eligibility for other safety net programs such as Medicaid and food stamps and to strengthen child support cooperation and collection requirements.

Consequences of Welfare Reform 1996–2001

Data from the U.S. Department of Health and Human Services (DHHS) indicate that since 1996 families receiving cash assistance dropped by 50 percent, from 4.4 million in 1996 to 2.2 million in June 2000 (DHHS 2001a). A recent federal report to Congress also highlights that the percentage of the total population dependent for more than one-half of their income on public benefit programs dropped from 5.8 percent in 1993 to 3.8 percent in 1998, and, in 1999, the percentage of cash assistance recipients who were working reached an all-time high. One-third of cash assistance recipients worked in 1999 compared to 11 percent in 1996 and less than 7 percent in 1992 (DHHS 2001b).

While employment among low-income families has risen and welfare dependency has dropped, many families have lost benefits without finding work, and many of the families with working adults are no better off economically. Studies show that between 50 to 75 percent of families are working shortly after leaving welfare. However, the jobs often carry no benefits, and one study found that former welfare recipients had a median hourly wage of $6.61, with 25 percent earning less than $5.29 an hour (Loprest 1999). There also is evidence that the child poverty rate did not fall as fast as the drop in the welfare caseload. Finally, declines in Medicaid and food stamp participation suggest that eligible families were unaware that they still qualify for these sources of support.

Growing awareness that families remaining on cash assistance have multiple barriers to work and represent the so-called 'hard-to-serve' or 'hard-to-place' creates uncertainty about the future successes and consequences of welfare reform. In addition, families transitioning from welfare to work may well need support services for longer periods. Critics point out that experiences with PRWORA have been during a period of unprecedented and sustained economic growth, and that, while fewer families are on welfare, low-income working families are not moving out of poverty. States are increasingly uncertain about the future direction of their TANF plans, particularly given the recession and questions about the availability of resources to continue new programs of support services. The unspoken concern is that it is easier to make generous choices about service delivery when resources are substantial.

Tribal Communities and Indian Families Uniquely Affected by PRWORA

PRWORA provided tribal communities and Indian families with an unprecedented opportunity that also presented substantial risk for two primary reasons: (1) tribal governments were given the authority and flexibility to administer their own TANF plans; and (2) Indian families are disproportionately represented among the needy 'hard-to-serve' families.

Opportunities and Risks

Section 412 in Title I of PRWORA gives federally recognized tribes new authority to design and administer their own TANF programs.[1] Tribal TANF plans are reviewed and approved by the federal Department of Health and Human Services. The tribes receive funding to operate their plans directly from the federal government. PRWORA also replaced Tribal Job Opportunity and Basic Skills Training (JOBS) program with the Native Employment Works (NEW) Program. The Balanced Budget Act of 1997, which amended PRWORA, authorized the Department of Labor to provide Welfare-to-Work (WtW) funds to tribes and local communities.

PRWORA also gives tribes flexibility in designing their TANF plans that was not given to the states. Tribes can (1) determine their own definitions of work (i.e., what kinds of activities meet the mandatory work participation for TANF recipients) to include education and training; (2) set employment participation rates that are different from the federal requirements for states; (3) set more generous time limits for receiving cash assistance than the federally-prescribed maximum of 60 months; and (4) exempt families receiving benefits from time limits entirely if they reside on reservations where the adult joblessness rate is 50 percent or higher. The tribes also can define their service population and service area when establishing their plans. Tribal leaders view this authority as comparable to the states' ability to define their service population by setting program eligibility criteria.

Some experts perceive PRWORA as an opportunity to operate social service programs in a way that makes sense to Indian families and tribal communities. PRWORA provisions for tribes recognize that many tribal communities and Indian families are primarily in rural areas with long-standing problems of high unemployment rates, and little to no economic infrastructure. The opportunity provided by TANF to restructure and integrate tribal programs and resources is critical to achieving the work-related goals of PRWORA.

These same experts, however, also note that funding mechanisms for tribal TANF plans create serious problems for establishing and administering tribal TANF plans (Hicks and Brown, 2000; Pandey et al., 2001). The amount of the tribal TANF grant is based on the federal payment to the states for Indian families residing in specified services areas in FY94. These data are

[1] There are 330 American Indian entities in the contiguous 48 states identified in the Federal Register and 13 Alaska entities identified in the Statute as eligible to administer the TANF program. Vol. 61, Number 220, pgs 58211-58216.

acknowledged as providing inaccurate information about eligible Indian families. In addition, while the states' caseloads have been declining since 1995, many tribal leaders report increases in Indian caseloads when tribes became more involved in the operation of TANF plans. Moreover, there is the potential for undervaluing funding needs by using a formula based on expenditures at a time when there were no tribal TANF plans.

States have long operated social services programs, but tribes establishing TANF plans now have infrastructure and administrative costs that cannot be accounted for by the 1994 federal expenditures for Indian families. In addition, tribes are not entitled to receive a portion of the state MOE funds unless states voluntarily agree to share these funds. Tribes are also ineligible, as states are, for funds to evaluate performance efforts, or for bonus incentives for reducing caseloads or out-of-wedlock births. Consequently, most tribes attempting to develop and administer TANF plans will likely face serious challenges due to their infrastructure needs and the risks of being solely responsible for hard to serve families.

Development of Tribal TANF plans

As of June 2001, DHHS had approved 34 tribal TANF plans serving 170 tribes in 15 states.[2] An additional 38 plans are pending. About one-third of American Indian families (approximately 4,000 families) enrolled in TANF received monthly assistance under tribal TANF plans. In addition, it is estimated that another 40,000 American Indian families were served by state governments in TANF plans. Tribal TANF plans were awarded $50.2 million in federal grant funds in FY 2001.[3] Seventy-eight tribal grantees are running Native Employment Works (NEW) programs, and 86 Tribal WtW grantees received $30 million over the last two years (Indian and Native American Employment and Training Coalition 2000).

Although tribal TANF plans can be more flexible in many areas than states (e.g., different definitions of work activities, work requirements), most tribal TANF plans are fairly similar to state plans, (e.g., almost all impose a 60-month time limit on receipt of benefits). However, 10 plans allow participation in traditional tribal subsistence activities (e.g., hunting, fishing) to count toward work requirement and 27 tribes set lower work participation rates. Estimates of the number of families served monthly by tribal TANF plans range from eight (Sokaogon Chippewa Community, Mole Lake Band in Wisconsin) to a high of 9,000 (Navajo Nation in Arizona, New Mexico and Utah).[4]

Due to lack of jobs and poor economic development, most tribal plans emphasize education and training as a first approach to welfare reform. Tribal leaders perceive the work-first philosophy of PRWORA as consistent with their tribal values of self-sufficiency, family, and education. The variability among tribal plans usually reflects individual tribal histories and experiences and not

---

[2] States with approved Tribal TANF plans include AK, AZ, CA, ID, MN, MT, NB, NM, OK, OR, SD, UT, WA, WI, and WY.

[3] Apodaca, R. DHHS Division of Tribal Services. Personal communication, February 27, 2002.

[4] See www.acf.dhhs.gov/programs/dts/tanfchar_227.htm. For characteristics of the approved Tribal TANF plans.

different philosophies about welfare reform.[5] Overall, tribal leaders are reportedly proud of their efforts to gain self-sufficiency and help Indian families go to work (Informant Interviews 2001; Pandey et al. 1999a).

Tribal TANF plans are fairly new, as more than two-thirds of plans have been approved since mid-1998. The development of tribal TANF plans, however, presents substantial challenges for tribal leaders. Unlike states, many tribes must start from the ground in developing the requisite capacities for successful TANF programs. Operating tribal TANF plans also present substantial risks for tribes because tribal communities have lower educational attainment, less work experience, greater health problems, a higher birth rate, and are more likely to live in severe poverty than average US communities (Pandey et al. 1999b).

Because of these challenges and risks, some tribal leaders assert that tribes should be more creative with the opportunities provided by PRWORA, and not focus just on the opportunity to run a TANF program. Tribes are uniquely well suited to run social services programs for Indian families as well as TANF programs that will be culturally appropriate and highly accessible. This approach exemplifies the devolution values and goals of welfare reform. Tribes can contract with states to operate certain aspects of the state TANF plans for Indian families, such as child care, and use this opportunity for economic development (e.g., building child care centers and employing residents of the reservations).

Experiences of Indian Families under State and Tribal TANF Plans

Indian Country has not benefited from the strong economy that generally improved opportunities in most states for families transitioning from welfare to work. Although the number of Indian families receiving cash assistance has declined, this decline is not comparable to the overall TANF caseload decline.

States have been less successful in moving Indian families from welfare to work under their state TANF plans as compared with families overall. As previously noted, about two-thirds of Indian families currently enrolled in TANF receive their benefits under state TANF plans. In Alaska, the overall state AFDC/TANF caseload fell by 14.8 percent between 1994 and 1998 while the American Indian caseload fell by 6.4 percent (DHHS 2000a). Other states have comparable figures: Arizona had an overall drop of 59.2 percent compared to 40.4 percent drop for American Indians; Montana, 26.3 percent decline versus a .5 percent increase; North Dakota, a 55 percent decline versus a 42 percent decline; and South Dakota, 65 percent decline versus an 8.8 percent decline (DHHS 2000).

[5] For example, the Mille Lacs Band of Ojibwe in Minnesota operate their own casino; Wisconsin tribes had already been administering social services in collaboration with state, Navajo Nation is representative of large tribes with history of obtaining resources.

Although nationwide Indian families comprised just under 2 percent of the welfare caseload in FY 1999; in some states with sizable Indian populations, cash assistance caseloads are becoming increasingly and disproportionately composed of Indian families living on rural reservations (DHHS 2000). For example, in Montana, Indian families represented 29 percent of the cash assistance caseload in 1994 and 50 percent of the caseload in FY 1999; in South Dakota, the shift is from 58 percent to 76 percent; and in North Dakota, the shift is from 42 percent to 58 percent (DHHS 2000).

These results are not surprising given that tribal communities suffer disproportionately from lack of an economic base and few opportunities for job training and work. In order to achieve the TANF mandate for self-sufficiency, Indian families must consider leaving their reservations to find viable employment opportunities; most are reluctant to do this (Pandey et al. 1999b). Consequently, the historic challenges associated with helping Indian families achieve self-sufficiency mirror the states' newly-evolving challenges with addressing the needs of 'hard-to-serve' families remaining on their welfare rolls five years after welfare reform.

Early findings examining the circumstances and potential impact of welfare reform on three Arizona reservations are instructive. Characteristics of Indian TANF recipients enrolled in state plans included: (1) 73 percent did not have a high school diploma; (2) 46 percent had never worked at a regular job for pay (nationally 75 percent of welfare recipients had some work experience); (3) transportation and childcare services were problematic (e.g., only 29 percent of respondents owned a car and, while most families had children, few had used formal childcare arrangements; (4) 50 percent were unable to purchase all the food they needed and 25 percent said their children went to bed hungry; and (5) 22 percent said gas and electricity had been cut off during the last three months. Of the 11 percent who found work and exited TANF, respondents averaged hourly wages of $6.70 and monthly income of $482, which is well below poverty level. Notwithstanding these conditions, however, two-thirds reported that they wanted to remain on the reservation due to the central importance of culture and family[6] (Pandey et al., 2000).

It is too soon to tell whether tribal TANF plans will produce better results for Indian families than state plans. Most tribal TANF administrators report that their clients are much more traumatized and needy than they ever anticipated (Informant Interviews 2001). Despite opportunities for tribes to provide more culturally competent benefits and services, Indian families will have similarly serious problems achieving self-sufficiency under tribal TANF plans.

[6] Data are taken from interviews with 445 current/ former TANF recipients in 1998 on three reservations in Arizona (Navajo, San Carlos, and Salt River); informants received benefits under state TANF plans as Tribal TANF plan for one of these reservations was in developmental phase (Pandey et al. 2000).

Some Indian Families Resemble States' 'Hard-to-Serve' Population

The welfare reform dynamics for Indian families and tribal communities are similar to what states now face with the 'hard-to-serve' families remaining on their public assistance rolls – families face multiple barriers to work. Findings from a study in Minnesota show that Indian families were among the worst off after leaving cash assistance (Informant Interview 2001). In fact, some advocates suggest that the TANF enrollment for Indian families could increase as tribal TANF programs present services and programs that are more culturally competent and accessible to Indian families. Even though interest in tribal TANF programs is growing, the majority of tribes currently are served under state TANF plans. Consequently, many states must continue to address the unique needs of tribal communities since Indian families tend to be among the 'hard-to-serve' families.

Key Reauthorization Issues—States and Tribes Have Much in Common, But Unique Concerns Affect Tribal Communities

While an improved economy has helped many low-income families leave cash assistance, most continue to be employed in low-wage jobs with few benefits and little chance of becoming truly self-sufficient. At least half of former welfare recipients in 1997 and 1999 had incomes below the poverty level and also had complicated childcare and transportation needs (Loprest 2001). These circumstances have prompted calls for rethinking the TANF goals and for reframing reauthorization issues toward a focus on moving families out of poverty.

Congressional actions taken as a result of the 2002 reauthorization debates could be wide-ranging or limited depending upon how issues are framed and how well TANF seems to be working. Now that the federal mandate for reduced caseloads has been met, other federal mandates for expanding support to working families, reducing poverty, and enhancing family well-being may be considered. Because the nation's healthy economy helped make welfare reform a success or at least prevented excessive hardship, concerns about the effects of the economic slowdown undergird the urgency of securing federal commitments to reduce child and family poverty rates.

Issues Identified by Advocates and Policymakers

Advocates have identified several priority issues for TANF authorization. These issues include: (1) shifting from a focus on promoting marriage to reducing child poverty and increasing family income; (2) strengthening the safety net for low-income working families; (3) increasing the size of the TANF block grants to facilitate job promotion and retention and the provision of comprehensive transition services; (4) acknowledging that the 'hard to serve' families remaining on assistance present the most serious employment barriers and must be served aggressively under TANF plans; and (5) increasing the percentage of recipients exempt from time limits from the current 20 percent ceiling.

State officials identify two categories of reauthorization issues related to financing and flexibility. One of the major financing issues is that TANF block grant funding must, at least, remain at the same level but preferably be increased. States also are concerned that Congress reauthorize the supplemental grant funds that are available to particularly needy states and continue the contingency fund for states in need of one-time additional resources. Preserving and enhancing flexibility is also a key concern for states so they can continue developing state/local structures for service delivery without burdensome federal requirements. Specific flexibility issues include: (1) getting new authority to count education activities toward work requirements; (2) eliminating restrictions on how states can use their carryover funds; and (3) gaining authority to determine how and when to suspend the TANF time clock, especially regarding receipt of support services. States oppose efforts to institute more incentive and bonus payments under TANF as these provisions ultimately limit states' discretion in funding and policy decisions.

Issues Specific to Tribes

For tribal leaders and advocates, reauthorization provides the forum to raise a fundamental question: how to develop both stable and sustainable tribal communities that support self-sufficiency for Indian families. These issues are reflected in a National Congress of American Indians (NCAI) vision statement of PRWORA that identifies welfare reform as a vehicle for: (1) strengthening tribal families; (2) protecting the interests of tribal children; (3) promoting family self-sufficiency; (4) substantially reducing dependence on public assistance; and (5) developing economically prosperous and culturally thriving tribal communities.[7]

Tribal leaders and advocates point out that tribal leaders were not directly involved in drafting PRWORA, and tribal provisions were added somewhat as an afterthought. Reauthorization, then, provides the opportunity for tribes to seek PRWORA amendments that will make this block grant approach more accessible for the tribes while preserving the flexibility already afforded tribes in developing and implementing their TANF plans. The tribes must also consider how to balance the potential scope of their obligations under TANF with the federal government's historic trust obligations to support Indian tribes as payment for millions of acres of ceded Indian lands.

The Funding Formula: Reexamination of the funding formula for determining the amount of their TANF block grants is an important issue for tribes. The current formula is based on the costs of services provided to Indian families in 1994. This approach does not consider that states were not providing expanded support services in 1994 and that tribes lacked the infrastructure necessary to support the delivery of TANF services. A new funding formula must account for tribes' compelling infrastructure needs post-PRWORA. Giving tribes equal access to state MOE funds and to federal performance bonus and incentive funds also could expand the funding base.

---

[7] Founded in 1944, NCAI is oldest and largest national organization of Indian Nations. NCAI serves to build cooperation among Indian Nations for the advancement of treaty rights, tribal sovereignty, and the welfare of American Indians and Alaska Natives.

Investment in individual families and tribal communities. To create healthy tribal economies and self-sufficient Indian families, tribes believe it is necessary to invest in individual families and tribal communities. The premise of this priority is the reduction of poverty as a new goal of welfare reform, instead of reductions in public benefits caseloads. Although 64 percent of Indian families in tribal TANF programs participate in work activities, only 11 percent of adults work in unsubsidized employment (Pandey et al. 1999a). The low percentage in unsubsidized employment illustrates the lack of economic opportunities for Indian families, and the need to focus on creating sustainable economies and livable wage jobs on the reservations. Tribal leaders report that Indian families are eager to participate in job skills development initiatives, but that additional resources are needed to support services to help Indian families transition off welfare or not become dependent on welfare (Informant Interviews 2001; Pandey et al. 2000).

The flexibility currently afforded tribes under TANF can also be used to promote these goals. For example, the federal block grant approach to distributing the CCDF funds creates administrative difficulties for the tribes due to regulatory requirements for operating childcare entities. Tribal receipt of CCDF funds could be tailored to the cultural and economic needs of the reservations and joined with other funding sources to establish more childcare locations. Another example involves provisions of PRWORA whereby an adult joblessness rate of 50 percent or greater on the reservations means that receipt of cash assistance is not counted toward the time limit. Tribal leaders assert that the joblessness rate trigger should be lower given the poor economic conditions on most reservations and the relatively low national unemployment rates (i.e., less than 10 percent in the past 50 years). This change would enable families to receive more months of economic support while the tribal economies are being developed.

Complementary approaches to achieving self-sufficiency. The consequences of years of exploitation and the lack of economic development in Indian Country have created enormous challenges to achieving PRWORA self-sufficiency goals within the five-year time limit. Faced with Indian families with little or no access to transportation, childcare, and health care services, as well as high rates of depression and substance abuse, accomplishing self-sufficiency for families within the five-year time limit for receipt of cash assistance mandated by PRWORA is considered unrealistic (Informant Interviews 2001). Tribal leaders instead are focused on nation building strategies as complementary approaches to achieve self-sufficiency. The strategies are premised on 10 to 15 years of initiatives, during which time tribes could develop the infrastructure and resources to administer not only TANF plans, but also provide long-term economic security for Indian families.

Tribal leaders point out that tribes are thinking creatively about how to use the options under PRWORA and other federal statutes to jumpstart and sustain economic development. For example, the Indian Employment, Training and Related Services Demonstration Act of 1992 (PL 102-477) allows tribes to co-mingle funds from three federal agencies across programs under a single plan, budget and reporting system. This approach facilitates one-stop shopping on reservations by reducing administrative burdens. The Indian Self-Determination and Education Assistance Act of 1975 (PL 93-638) provides that tribes can contract with the federal government to provide services and that this contract must include payment of contract support costs. Tribes

use this law to assert that they are entitled to get TANF infrastructure costs covered. While this issue is in court, with federal officials insisting that PL 93-638 cannot be used to draw down federal funds for TANF administration, PRWORA reauthorization could also provide a venue for resolving the legal impasse regarding this issue (Informant Interviews 2001; Pandey et al. 1999b).

Tribal/State Relationships: Recognized by the federal government as sovereign entities with the same governmental rights as states, tribes historically have had contentious and arms-length relationships with states. However, more recently tribal and state governments reportedly have been forging improved intergovernmental collaborations where the goal involves helping families and children within the context of welfare reform.

Substantial challenges remain as states and tribes work on collaborating and cooperating. Tribal leaders are nervous about eroding their federally established sovereignty by developing closer ties with states. States want the ability/authority to review tribal TANF plans because the these plans could affect states' success in operating their TANF plans and states want more tribal accountability. Some state officials resent the flexibility given to tribes in administering TANF plans and believe they deserve the same flexibility to define work activities and participation rates (Informant Interviews 2001).

Tribes are aware that they must attempt to develop and operate their TANF programs without existing infrastructure and experience such as the states have had, and that a few states have not readily shared their MOE funds with tribes. Tribal leaders also want to be able to review state TANF plans to ensure accessibility for Indian families since an estimated two-thirds of Indian families continue to receive TANF benefits under state TANF plans. Reauthorization activities and decisions must account for these issues and fragile relationships and not, in effect, pit the tribes against the states.

Common Interests Could Outweigh Areas of Contention for States and Tribes

States and tribes share a number of broad goals for PRWORA reauthorization. Both states and tribes support shifting the focus of welfare reform to reducing poverty and that TANF funding should remain the same, at a minimum. They also both agree on the need to expand their flexibility to define work activities more broadly and adjust participation rate requirements, including changing the definition of assistance to exclude supportive services and allow families to receive these services without the time limits. Finally, states and tribes want to avoid creating new incentives and/or performance bonuses that, in essence, reduce resources and constrain the flexibility of states and tribes to shape their TANF programs.

Areas of tension between states and tribes have less to do with the substance of the goals for welfare reform reauthorization and more to do with their relative power and authority under PRWORA. For example, tribes want states to consult with them when developing their TANF programs asserting that American Indians are citizens of both states and tribes. This is an

important issue because states must serve Indian families where tribes have not undertaken to operate tribal TANF plans. States want more oversight over tribal TANF plans to ensure greater accountability and avoid duplication with state services. Tribes want a greater share of MOE funds and more federal funding to support infrastructure development and capacity building. To the extent that tribes deserve more money, states are concerned that the funds will be taken from their PRWORA allocations. While there are clear issues of tension, tribal leaders and state officials should approach the reauthorization debate as allies promoting their shared responsibility for the ongoing implementation and success of welfare reform.

Congress Has the Opportunity to Address the Needs of Tribal Communities in 2002

Through reauthorization, Congress has the opportunity to consider how best to ensure that tribal TANF plans have the resources necessary to move tribal families to self-sufficiency in the short-term, and that tribal governments can build the economic infrastructure necessary to make reservations thriving economic communities capable of sustaining self-sufficiency in the long-term.

References/Resources

In addition to reviewing the references noted below, this issue brief was informed by interviews with representatives and officials from the following entities: National Conference of State Legislators; National Congress of American Indians; Center for Law and Social Policy; Bureau of Indian Affairs; Administration for Children and Families, US DHHS; and the Kathryn M. Buder Center for American Indian Studies.

Brown, R. 2001. *Welfare Reform in Indian Country: Current Trends and Future Directions.* Available: www.welfareinfo.org/welfarereformindiancountryissuenote.htm.

Food Research and Action Center. 2001. WIC in Native American Communities: Building a Healthier America. Available: www.frac.org/html/news/wic01summary.html.

Greenberg, M. et al. 2002. The 1996 Welfare Law: Key Elements and Reauthorization Issues Affecting Children, *The Future of Children*. 12 (2) Winter/Spring. The David and Lucile Packard Foundation.

Greenberg, M. 2001. *Welfare Reform and Devolution. Looking Back and Forward.* Washington, DC: The Brookings Institution, 19 (3), 20-24.

Hicks S.L. and E F. Brown. 2000. Future of Welfare Reform: Considerations for Reauthorization, Investing in Indian Families and Communities. George Warren Brown School of Social Work, Washington University, St. Louis at www.ncai.org/indianissues.

Hicks, S. and Dossett, J. 2000. *Principled devolution: Protecting tribal self-determination in an era of growing state power, working paper.* NCAI: Washington, DC.

Indian and Native American Employment and Training Coalition. 2000. *Tribal Program Serve the Employment Needs of Welfare Recipients.* NCAI:Washington, DC.

Johnson, S., Kaufmann, J. et al. 2000. *Government-to-Government: Understanding state and tribal governments.* NCSL: Denver, CO.

Kauffman, J. 2002 Welfare Reform and American Indian Tribes: Critical Decisions for the Future of Indian Families. Washington, DC: The Henry J. Kaiser Family Foundation.

Loprest, P. 2001. *How are families that left welfare doing? A comparison of early and recent welfare leavers.* Washington, DC: The Urban Institute, Policy Brief Series B No.B-36.

Loprest, P. 1999. *How families that left welfare are doing: A national picture.* Washington, DC: The Urban Institute, Policy Brief B-1.

National Congress of American Indians. 2000. Issues in Indian country: welfare reform. Available: www.ncai.org.

National Congress of American Indians. 2001. *Investing in Indian Families and Tribal Communities: A Tribal Agenda for Welfare Reform Reauthorization.* www.ncai.org/indianissues/welfarereform.

Pandey, S., Brown, E.F., Scheuler-Whitaker, L. 1998. *Impact of Temporary Assistance for Needy Families (TANF) on American Indian families with children.* Kathryn M. Buder Center for American Indian Studies, Washington University, St. Louis.

Pandey, S., Brown, E.F., et al. 1999a. Promise of welfare reform: Development through devolution on Indian reservations. *Journal of Poverty*, 3(4), 37–61.

Pandey, S., Brown, E.F., et al. 1999b. *Implementation of The Temporary Assistance For Needy Families (TANF) on American Indian Reservations: Early Evidence from Arizona.* Kathryn M. Buder Center for American Indian Studies, Washington Univ, St. Louis.

Pandey, S., Zhan, M., et al. 2000. *How are families on reservations faring under welfare reform? working paper 2.* Kathryn M. Buder Center for American Indian Studies, Washington University, St. Louis.

Pandey, S., Brown, EF, Scheuler-Whitaker, L. Forthcoming 2002. Welfare Reform on American Indian Reservations: Initial Experience of Service Providers and Recipients on Reservations in Arizona. *Journal of Social Policy.*

Pavetti, L A. 2000. *Welfare Policy in Transition: Redefining the Social Contract for Poor Citizen Families with Children and Immigrants.* Prepared for Institute for Research on Poverty's conference "Understanding Poverty in America: Progress and Problems." Madison, WI.

Primus, Wendell. 2001. *What Next for Welfare Reform? A Vision for Assisting Families.* Washington, DC: The Brookings Institution, 19 (3), 17–19.

U.S. Department of Health and Human Services (USDHHS). 1999. *Second Annual Report to Congress: Temporary Assistance for Needy Families (TANF) Program.* Washington, DC.

USDHHS. 2000a. *Third Annual Report to Congress: Temporary Assistance for Needy Families (TANF) Program.* Washington, DC.

USDHHS. 2000b. Guidance Concerning State Maintenance-of-Effort Funds Paid to a Tribe with an Approved Tribal Family Assistance Plan. www.acf.dhhs.gov/news/welfare/pa004.htm.

USDHHS. 2001a. Characteristics of Tribal TANF Programs www.acf.dhhs.gov/programs/dts/.

USDHHS 2001b. *Indicators of Welfare Dependence Annual Report to Congress.* Washington, DC.

USDHHS 2001c. ACF News. Change in TANF Caseloads Since Enactment of New Welfare Law. Available at www.acf.dhhs.gov/news/stats/aug-dec.htm.

Zedlewski, S. 1999. *Work activity and obstacles to work among TANF recipients.* Washington, DC: The Urban Institute, Policy Brief B-s.

BEST COPY AVAILABLE

The Henry J. Kaiser Family Foundation, based in Menlo Park, California, is a non-profit independent national health philanthropy dedicated to providing information and analysis on health issues to policymakers, the media, and the general public. The Foundation is not associated with Kaiser Permanente or Kaiser Industries.

The Henry J. Kaiser Family Foundation

2400 Sand Hill Road
Menlo Park, CA 94025
(650) 854-9400 Fax: (650) 854-4800

Washington Office:
1450 G Street NW, Suite 250
Washington, DC 20005
(202) 347-5270 Fax: (202) 347-5274

www.kff.org

Additional free copies of this publication (#6025) are available on the Kaiser Family Foundation's website at www.kff.org or by calling the Foundation's Publication Request line at (800) 656-4533.

BEST COPY AVAILABLE

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
National Library of Education (NLE)
Educational Resources Information Center (ERIC)

NOTICE

Reproduction Basis

[X] This document is covered by a signed "Reproduction Release (Blanket)" form (on file within the ERIC system), encompassing all or classes of documents from its source organization and, therefore, does not require a "Specific Document" Release form.

[ ] This document is Federally-funded, or carries its own permission to reproduce, or is otherwise in the public domain and, therefore, may be reproduced by ERIC without a signed Reproduction Release form (either "Specific Document" or "Blanket").